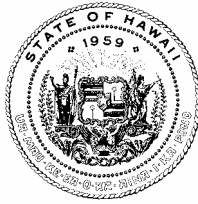


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November 5, 2004

MEMORANDUM

TO: Developers of Condominium Projects

FROM: Real Estate Commission (Commission)

SUBJECT: Request for an Extension of the Effective Date of a Developer's Public Report

A request for an extension of the effective date of a developer's public report, requires at the minimum, the following (note: for a two-apartment project, review the next page)

1. A written request submitted to the Commission at least **thirty (30) calendar days prior** to the expiration date of the subject developer's public report, signed by the developer.
2. A \$50.00 non-refundable fee in the form of a check or money order payable to: Commerce and Consumer Affairs.
3. The written request should, at the minimum, state:
 - a. Whether or not there have been changes to the condominium project and changes to the information in the subject developer's public report that would render the subject developer's public report misleading to purchasers in any material respect. If no changes, then please state specifically "There have been no changes to the condominium project and no changes to the information in the developer's _____ public report that would render the developer's _____ public report misleading to purchasers in any material respect."
 - b. For a developer's final public report or a developer's supplementary public report to a developer's final public report:
 - (1) Whether the first meeting of the association of apartment owners has been held pursuant to section 514A-82(a)(11)? If so, the date of the meeting. If not, the date of recordation of the first apartment conveyance, percentage of apartments sold and recorded, and whether 10% or more of the apartment owners have submitted a request for the first meeting.
 - (2) Whether the association of apartment owners, developer, affiliate of developer, or condominium managing agent has registered with the Commission pursuant to subsection 514A-84(b) and/or section 514A-95.1? If not, the date of recordation of the first apartment conveyance and/or the date of the first association of apartment owners meeting?

- (3) Whether the association of apartment owners or developer has prepared and adopted an annual operating budget, which includes reserves? If not, why not in compliance with section 514A-83.6?
- c. The required performance bond, or such other Commission approved equivalent as an irrevocable letter of credit, or material house bond is current and in full force and effect, and is for the amount of not less than one hundred per center of the cost of construction.
- d. Whether the submitted or any updates of an irrevocable letter of credit satisfies the following conditions and terms:
 - (1) Is issued by a federally insured institution located in this State or elsewhere in the United States; provided for those letters issued by a non-Hawaii federally insured institution that the institution is either:
 - A nationally federally chartered bank and that a State of Hawaii federally insured financial institution has confirmed the letter of credit; or
 - An out-of-state federally insured financial institution and that a State of Hawaii federally insured financial institution has confirmed the letter.
 - (2) Is in the amount required by statute (100% of the construction cost; Section 514A-40(a)(5), Hawaii Revised Statutes);
 - (3) Names the beneficiary as the Real Estate Commission;
 - (4) Provides specifically that the Real Estate Commission is the only entity that can draw on the irrevocable letter of credit in the event the construction of the condominium project is not completed; and
 - (5) Provide specifically that the Real Estate Commission is the only entity that can reduce the amount of the irrevocable letter of credit.

Please note that the Commission may approve a request for extension of the effective date of a developer's public report, subject to satisfying other requirements, especially those aforementioned. Section 514A-43, HRS, provides that the developer is required to submit supporting information to determine if the developer's public report is misleading to purchasers in any material respect. The developer cannot simply state that there are no changes if material inaccurate statements and information are in the developer's public report or changes are omitted from the developer's public report where it should have been included.

For a two-apartment project requesting a "non-expiring" effective date for the developer's final public report pursuant to section 514A-43(b) requires, at the minimum, the following:

- 1. A written request submitted to the Commission at least **thirty (30) calendars days prior** to the expiration date of the developer's final public report, signed by the developer.
- 2. In the request, provide responses to those applicable requirements as cited above.
- 3. Submit a completed affidavit of the developer.
- 4. A \$100.00 non-refundable fee in the form of a check or money order payable to: Commerce and Consumer Affairs.

Direct all questions or requests to the Condominium Section at the address above or call 586-2643.